

Applicant's or agent's file reference MH504102-142	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).	
International Application No. <b>PCT/NZ2003/000220</b>	International Filing Date (day/month/year) 30 September 2003	Priority Date (day/month/year) 30 September 2002
International Patent Classification (IPC) or national classification and IPC Int. Cl. <sup>7</sup> B65D 1/02, 1/40		
Applicant CO2 PAC LIMITED et al		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

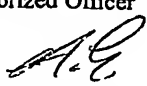
2. This REPORT consists of a total of 3 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 7 sheet(s).

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 16 April 2004	Date of completion of the report 11 January 2005
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  <b>ADRIANO GIACOBETTI</b> Telephone No. (02) 6283 2579

**I. Basis of the report****1. With regard to the elements of the international application:\***

- ☐ the international application as originally filed.
- ☒ the description, pages 1-4, 8-16 as originally filed,  
pages , filed with the demand,  
pages 5,6,7 received on 21 December 2004 with the letter of 21 December 2004
- ☒ the claims, pages , as originally filed,  
pages , as amended (together with any statement) under Article 19,  
pages , filed with the demand,  
pages 17-20 received on 21 December 2004 with the letter of 21 December 2004
- ☒ the drawings, pages 1/15-15/15 as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

**2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.**

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

**3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:**

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

**4. The amendments have resulted in the cancellation of:**

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

**5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\***

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims 1-35	YES
	Claims	NO
Inventive step (IS)	Claims 1-35	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-35	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**Cited Prior Art Documents

D1: US 4880129                      D2: WO 1993/012975  
D3: WO 1999/021770              D4: WO 1997/003885  
D5: JP 64-009146                  D6: WO 2002/018213

**NOVELTY(N) AND INVENTIVE STEP(IS): Claims 1-35 (YES)**

The invention of claim 1 relates to a container having at least one substantially transversely orientated pressure panel portion located in a lower portion, and the pressure panel portion being capable of folding from one longitudinally inclined position to an inverted position to compensate for a change of pressure induced within the container.

The closest prior art documents (D1) and (D2) each disclose a hot-fill type container or bottle having a pressure or vacuum panel portion in the base area which is capable of deflecting both inward and outward in order to provide adequate volumetric expansion and contraction (ie change of internal container pressures) of filled sealed containers.

However, none of the documents above disclose the pressure panel portion within the base portion including an initiator portion and a control portion wherein the initiator portion provides for folding before the control portion. Therefore it is considered that the present documents (D1) to (D6) do not disclose or fairly suggest this arrangement and hence the invention of claim 1, and appended claims 2 to 35, is considered to be novel and involves an inventive step.

Consequently the invention defined in claims 1 to 35 meets the requirements of Articles 33(2) and 33(3) of the PCT with regard to novelty and inventive step.

**INDUSTRIAL APPLICABILITY(IA): Claims 1-35 (YES)**

The invention defined in claims 1 to 35 meets the requirements of industrial applicability under Article 33(4) of the PCT because the container can be made or used in industry.